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RECORDATION NO. 9605-J Filed 1025

FFB 10 1981 -2 35 PM

February 10, 1981

INTERSTATE COMMERCE COMMISSION

Agatha L. Merganovich, Secretary
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington, D.C. 20423

No. 1-041A075
Date FEB 10 1981 A.H.
Fee \$ 10.00
ICC Washington, D. C.

Dear Secretary Merganovich:

Pursuant to 49 U.S.C. §11303 and the Commission's rules and regulations, I enclose for filing and recordation two originals and five copies of the following document:

First Amendment to Loan Modification and
Moratorium Agreement dated February 6, 1981
among First National Bank and Trust Company,
First Peoples Bank of New Jersey, First State
Bank (formerly West Side Bank), Hazelton
National Bank and Girard Leasing Corporation.

This document relates to boxcars subject to a Loan
Modification and Moratorium Agreement among First National
Bank and Trust Company, First Peoples Bank of New Jersey,
First State Bank (formerly West Side Bank), Hazelton National
Bank (Lenders) and Girard Leasing Company (Debtor) dated
November 19, 1980 and filed with the Commission November 21,
1980 and assigned Recordation Number 9605-J.

The names and addresses of the parties to the afore-
mentioned document to be filed are:

(a) Lenders:

First National Bank and Trust Company
P.O. Box 391
Waynesboro, PA 17268

First Peoples Bank of New Jersey
Cuthbert and MacArthur Drive
Haddon Twp., N.J. 08108

First State Bank
(formerly West Side Bank)
101 N. Main Street
Scranton, PA 18504

RECEIVED
FEB 10 2 30 PM '81
I.C.C.
FEE OPERATION BR.

C. Decker
Agatha L. Merganovich

Agatha L. Merganovich, Secretary
February 10, 1981
Page Two

Hazelton National Bank
Broad and Laurel Streets
Hazelton, PA 18201

(b) Debtor:

Girard Leasing Corporation
3 Girard Plaza
Philadelphia, PA 19101

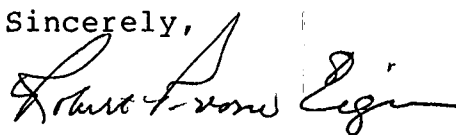
The First Amendment to the Loan Modification and Moratorium Agreement amends certain terms and conditions in light of the First Supplement to the Management and Remarketing Agreement between Debtor and North American Car Corporation (NAC) dated January 27, 1981, and a Utilization Agreement between NAC and the Atchison, Topeka and Santa Fe Railway Company. Both the First Supplement and the Utilization Agreement are attached to the First Amendment to the Loan Modification and Moratorium Agreement and marked as Exhibit "A". The First Amendment to the Loan Modification and Moratorium Agreement relates to the following boxcars:

Fifty-Two (52) 50'6" 70-ton XM
rated boxcars bearing Road Numbers
PT 200048 through PT 200099
inclusive.

Please file the First Amendment to the Loan Modification and Moratorium Agreement, cross-indexing it under the names of the Lenders and Debtor. A check is enclosed for \$10.00 as prescribed pursuant to 49 U.S.C. §1116.3(d).

Please stamp all copies of the First Amendment to the Loan Modification and Moratorium Agreement and the attached copies of the transmittal letter with your official recording stamp. You will wish to retain one original and one copy of each document and the original of the transmittal letter for your file. Please return the duplicate original and the remaining copies of the First Amendment to the Loan Modification and Moratorium Agreement and the transmittal letter to the bearer of this letter.

Sincerely,



Robert P. vom Eigen

RPvE:Dn

Encls:

Interstate Commerce Commission
Washington, D.C. 20423

2/10/81

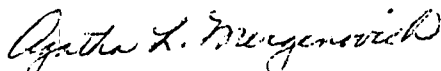
OFFICE OF THE SECRETARY

Robert P. Vom Eigen
Dechert Price & Rhoads
888 17th Street, N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **2/10/81** at **2:35pm**, and assigned re-recording number(s). **9605-K**

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 9605-K Filed 1425
FFB 10 1981 -2 35 PM
INTERSTATE COMMERCE COMMISSION

FIRST AMENDMENT TO LOAN MODIFICATION
AND MORATORIUM AGREEMENT

This is a FIRST AMENDMENT ("First Amendment") dated as of February 6, 1981 to a LOAN MODIFICATION AND MORATORIUM AGREEMENT ("Loan Modification Agreement") dated as of November 19, 1980, filed with the Interstate Commerce Commission on November 21, 1980 and assigned recordation number 9605-J by and among FIRST NATIONAL BANK AND TRUST COMPANY, a Pennsylvania banking corporation with principal offices in Waynesboro, Pennsylvania ("First National"), FIRST PEOPLES BANK OF NEW JERSEY, a New Jersey banking corporation with principal offices in Haddon Township, New Jersey ("First Peoples"), FIRST STATE BANK (formerly West Side Bank), a Pennsylvania bank with principal offices in Scranton, Pennsylvania ("First State"), and HAZELTON NATIONAL BANK, a banking corporation with principal offices in Hazelton, Pennsylvania ("Hazelton National") (First National, First Peoples, First State and Hazelton National hereinafter collectively referred to as the "Lenders") and GIRARD LEASING CORPORATION, a Pennsylvania corporation with principal offices located at 3 Girard Plaza, Philadelphia, Pennsylvania 19101 ("Debtor").

BACKGROUND

A. In accordance with the authority and approval of Lenders, Debtor entered into a Management and Remarketing

Agreement (the "Management Agreement") dated November 12, 1980 by and between Debtor and North American Car Corporation ("NAC") and an Equipment Lease Termination Agreement (the "Termination Agreement") dated as of November 13, 1980 by and between Debtor and National Railway Utilization Corporation and Pickens Railroad Company. Pursuant to the Termination Agreement and the Management Agreement, NAC has obtained control of fifty (50) units of the fifty-one 70-ton XM rated boxcars (the "Equipment") referred to in the Loan Modification Agreement.

B. NAC has identified a utilization opportunity for the Equipment with the Atchison, Topeka and Santa Fe Railway Company (the "Santa Fe"). Debtor and NAC have entered into a First Supplement to the Management Agreement (the "First Supplement") dated as of January 27, 1981 which sets forth the terms and conditions of the Santa Fe utilization. A true and correct copy of the First Supplement, which includes as an exhibit the utilization agreement for the Equipment between NAC and the Santa Fe, is attached hereto and marked as Exhibit "A".

C. The Loan Modification Agreement includes certain terms and conditions which Lender and Debtor agree should be amended in light of the First Supplement.

TERMS

NOW THEREFORE, Lenders and Debtor intending to be legally bound hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. Approval of the Santa Fe Utilization. Lenders approve of the Santa Fe utilization of the Equipment as set forth in the First Supplement.

2. Authority To Incur Start-Up Expenses. Lenders hereby authorize and direct Debtor to incur all start-up expenses necessary to permit the Equipment to be accepted by the Santa Fe including, but not necessarily limited to, unit repairs, remarking costs and movement charges to Stockton, California.

3. Payment of Costs, Fees and Expenses; Distribution of Revenues; Reconciliation. In accordance with the procedure set forth in paragraph 3 of the Loan Modification Agreement, all costs, fees and expenses incurred in connection with the Santa Fe utilization shall be advanced by Debtor first out of car hire revenues, if any, received from National Railway Utilization Corporation pursuant to the Termination Agreement and then out of its own account. Debtor shall submit statements to Lenders on the basis set forth in the Loan Modification

Agreement in an aggregate amount equal to one half of all costs, fees and expenses advanced out of its own account. Debtor's statement shall be due and payable within 10 days from receipt thereof by Lenders. All revenues received by Debtor from the Santa Fe utilization not needed to cover expenses shall be shared pro rata among Lenders and Debtor in the same proportion as costs, fees and expenses shall be advanced. Upon termination of the Santa Fe utilization, Debtor shall reconcile all costs, fees and expenses advanced but not yet recovered and Lenders shall reimburse Debtor for any such unrecovered costs, fees and expenses advanced as of that date.

4. Storage of Equipment; Delivery of Equipment.

The units of Equipment subject to the Santa Fe utilization may be stored by Debtor upon termination of the Santa Fe utilization at a facility or facilities (the "Facilities") within two hundred (200) miles of a Santa Fe interchange in the State of California or at such other storage facilities as are satisfactory to Debtor and Lenders. In the event that Debtor declines the opportunity to convert the Notes to a Term Loan as set forth in paragraph 4 of the Loan Modification Agreement, Debtor, on September 30, 1982, may deliver and surrender possession to Lenders of the units of Equipment subject to the Santa Fe utilization at the Facilities.

5. Effectiveness of Loan Modification Agreement.

Except as expressly set forth herein, all terms and conditions of the Loan Modification Agreement remain in full force and effect and unchanged.

6. Annulment of First Amendment. This First

Amendment shall become null and void if Debtor in its sole discretion does not go forward with the Santa Fe utilization.

FIRST NATIONAL BANK AND TRUST COMPANY

By Donald E. Bollinger
Executive Vice President

FIRST PEOPLES BANK OF NEW JERSEY

By [Signature]
Bank Investment Officer

FIRST STATE BANK

By Richard C. Evans
Controller

HAZELTON NATIONAL BANK

By Arthur A. Tarone
Vice President

GIRARD LEASING CORPORATION

By Richard J. McConnell
President

Commonwealth of Pennsylvania :
County of Philadelphia : ss.

On this 6th day of February, 1981 before me appeared Richard Evans, to me personally known, who being by me duly sworn, says that he is Controller of FIRST STATE BANK, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Joan H. Mair
Notary Public

[Notarial Seal]

My Commission Expires:

JOAN H. MAIR
Notary Public, Phila., Phila. Co.
My Commission Expires Aug. 15, 1983

Commonwealth of Pennsylvania :
County of Philadelphia : ss.

On this 6th day of February, 1981 before me appeared Donald E. Bollinger, to me personally known, who being by me duly sworn, says that he is Executive Vice President of FIRST NATIONAL BANK AND TRUST COMPANY, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Joan H. Mair
Notary Public

[Notarial Seal]

My Commission Expires:

JOAN H. MAIR
Notary Public, Phila., Phila. Co.
My Commission Expires Aug. 15, 1983

Commonwealth of Pennsylvania :
County of *Philadelphia* : ss.
~~New Jersey~~ :

On this 6th day of February, 1981 before me appeared David J. Sloan, to me personally known, who being by me duly sworn, says that he is Bank Investment Officer of FIRST PEOPLES BANK OF NEW JERSEY, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Joan H. Mair

Notary Public

[Notarial Seal]

My Commission Expires:

JOAN H. MAIR
Notary Public, Phila., Phila. Co.
My Commission Expires Aug. 15, 1983

Commonwealth of Pennsylvania :
County of Philadelphia : SS.

On this 6th day of February, 1981 before me appeared Arthur A. Tarone, to me personally known, who being by me duly sworn, says that he is ~~Executive~~ Vice President of HAZELTON NATIONAL BANK, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Joan H. Mair
Notary Public

[Notarial Seal]

My Commission Expires:

JOAN H. MAIR
Notary Public, Phila., Phila. Co.
My Commission Expires Aug. 15, 1983

Commonwealth of Pennsylvania :
County of Philadelphia : ss.

On this 6th day of February, 1981 before me appeared Richard J. McConnell, to me personally known, who being by me duly sworn, says that he is President of GIRARD LEASING CORPORATION, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Joan H. Mair
Notary Public

[Notarial Seal]

My Commission Expires:

JOAN H. MAIR
Notary Public, Phila., Phila. Co.
My Commission Expires Aug. 15, 1983

FIRST SUPPLEMENT TO MANAGEMENT AND
REMARKETING AGREEMENT

THIS IS A FIRST SUPPLEMENT dated as of January 27, 1981 to a MANAGEMENT AND REMARKETING AGREEMENT dated as of November 12, 1980 by and between NORTH AMERICAN CAR CORPORATION ("NAC") and GIRARD LEASING CORPORATION ("GLC").

BACKGROUND

A. In accordance with the Management and Remarketing Agreement (the "Agreement"), NAC has assumed responsibility for and is in the process of recovering from National Railway Utilization Corporation the fifty-one 70-ton XM rated boxcars (the "Equipment") referred to therein.

B. The Agreement provides for the development by NAC of both short and long-term utilization opportunities for the Equipment.

C. NAC has proposed to GLC that the Equipment be placed for a term of months ending December 31, 1981 with the Atchison, Topeka and Santa Fe Railway Company (the "Santa Fe").

D. GLC is in favor of NAC entering into an agreement with the Santa Fe for utilization of the Equipment subject to NAC meeting the following terms and conditions.

TERMS

NOW THEREFORE, the parties hereto, intending to legally bound, hereby agree to supplement the Agreement as follows:

1. The Utilization Agreement. The Equipment shall be placed by NAC with the Santa Fe subject to the terms and conditions of the undated agreement (the "Utilization Agreement") by and between NAC and the Santa Fe in the form attached hereto and marked as Exhibit "A."

2. Preparation of the Equipment and Delivery to the Santa Fe. NAC shall, at GLC's expense, affix, or see to the affixation by the Santa Fe (depending upon which of NAC or the Santa Fe is lower in cost) of, the Santa Fe's markings to the Equipment and otherwise perform such maintenance as is necessary for each unit of the Equipment to meet AAR Interchange requirements. NAC shall forthwith deliver to GLC Equipment inspection reports and estimates for the repairing and remarking of the Equipment on a unit-by-unit basis necessary for it to meet AAR Interchange requirements. Repair and remarking of the Equipment shall not commence until NAC has received GLC's written approval of the estimates. As additional units are recovered, NAC shall deliver updated estimates of preparation expenses and seek GLC's written

approval thereof. Completion of the Equipment's preparation and movement to the Santa Fe at Stockton, California shall occur on or before February 28, 1981 or such other date as shall be approved in writing by GLC.

3. Utilization of the Equipment. It is anticipated that the Santa Fe shall load the Equipment with shipments of grain bound for Mexico. Although there is no guaranty of actual loadings, it is anticipated that the Equipment shall have at least one loading into Mexico and might remain in Mexico for a substantial portion of the term of the Utilization Agreement. GLC hereby authorizes NAC to permit the Equipment to enter Mexico.

4. Revenue Generation. For such time as the Equipment is on the Santa Fe's lines, there shall be no per diem or any other compensation to GLC. At the same time, there will be no storage charges assessed by the Santa Fe. While off-line, the Equipment shall earn normal car hire revenue in accordance with the Interstate Commerce Commission's Ex Parte number 334 and the Equipment's UMLER value provided, however that for such time, if any, that the Equipment is in Mexico, there is a possibility that said revenue may be reduced by a ten (10%) per cent Mexican value - added tax.

5. Operating Expenses. GLC shall be responsible for all maintenance and running repair costs incurred for the Equipment.

6. Management Fee. GLC shall pay to NAC a management fee of \$2.30 per unit of Equipment for each day that the unit is generating revenue, such fee to be calculated by dividing the actual number of hours of use by twenty-four and multiplying the quotient by \$2.30, if GLC elects the guaranty of recovery of start-up expenses set forth in Section 7 below. Such election, to become effective, shall be made by GLC in writing delivered to NAC on or before the later of March 31, 1981 or receipt by GLC of all Equipment inspection reports and repair and remarking estimates referred to in Section 2 hereof as well as written confirmation of the per mile estimated movement charges set forth in NAC's January 12, 1981 letter to GLC. If GLC does not elect the guaranty of recovery of start-up expenses, GLC shall pay to NAC a management fee of \$1.50 per unit of Equipment for each day that the unit is generating revenue, calculated as aforesaid. Should GLC elect the guaranty of recovery of start-up expenses but subsequently direct NAC to terminate the Utilization Agreement prior to six months after at least sixty (60) units of the Equipment becoming subject to the Utilization Agreement,

whereupon the guaranty shall become null and void, the management fee shall revert, retroactively, from \$2.30 per unit of Equipment for each day that the unit is generating revenue to \$1.50 per unit of Equipment for each day that the unit is generating revenue with all excess fees to be repaid by NAC to GLC within ten (10) days of said early termination. In all events, without regard to whether GLC elects the guaranty of recovery of start-up expenses, no management fee shall accrue or be paid on car hire revenue generated subsequent to the termination date of the Utilization Agreement.

7. Guaranty of Recovery of Start-Up Expenses. NAC guarantees that should GLC not receive actual payment of Equipment revenue from NAC within six months from the receipt by the Santa Fe of thirty (30) units of the Equipment at its Stockton, California interchange point and all such units becoming subject to the Utilization Agreement, in an amount equal to at least (i) the cost of all Equipment repairs (both preparatory and running), remarking and movement to the Santa Fe incurred hereunder or under the Utilization Agreement (ii) all management fees earned by NAC hereunder together with (iii) interest on the outstanding daily balance of all such expenses and fees from the date incurred to the date recovered at the average daily prime rate of Girard

Bank for the period January 1, 1981 through June 30, 1981, inclusive, NAC shall make a payment to GLC within 30 days after the end of said six month period in such amount necessary to cause GLC to recover all such expenses, fees and interest in full. This guaranty of recovery of start-up expenses shall become null and void, however, if GLC exercises its right under Section 9 hereof to instruct NAC to terminate the Utilization Agreement as of an effective date prior to the six months of utilization referred to in this Section having occurred.

8. Retention by NAC of Revenue Received After Guaranty Payment to GLC. To the extent that revenue earned on the Equipment but not received by GLC during the six month guaranty of recovery of start-up expenses period is actually received by NAC from the Santa Fe within one hundred twenty (120) days after the end of the six month guaranty period, NAC shall be entitled to retain such revenue up to the amount of the guaranty payment theretofore paid by NAC to GLC.

9. Early Termination on Account of Insufficient Utilization. GLC may direct NAC to terminate the Utilization Agreement should the Equipment not be off-line and generating revenue for GLC during a minimum of 50 per cent of any month after receipt by NAC of the first monthly report required of the Santa Fe under the Utilization Agreement. Should GLC

direct NAC to terminate the Utilization Agreement, NAC shall be responsible to pay to GLC all off-line car hire earned and paid prior to the return of the Equipment to the Santa Fe lines. Movement of the Equipment shall be at no cost to GLC for a reasonable distance. Thereafter, movement shall be at a rate not to exceed the then lowest applicable AAR movement cost (presently Code of Car Service Rules - Freight #5). The Equipment shall be returned by the Santa Fe at a Santa Fe interchange point in the State of California. GLC shall bear the cost of movement from interchange to storage.

10. Reports. NAC shall provide to GLC monthly reports commencing not later than 120 days after the delivery of the Equipment to the Santa Fe which shall identify for each unit of the Equipment the following: total hours off-line for each month, total miles off-line for each month, total off-line per diem earned, total off-line per-diem turned over by the Santa Fe to NAC, days outside the continental United States, and itemization of running repairs actually paid. At GLC's request, NAC shall audit (not more than two times during the term of the Utilization Agreement) the Santa Fe's records and certify to GLC that they are accurate and correct. NAC shall continue to be responsible for all maintenance records for the Equipment and assure itself and GLC that maintenance is being properly performed.

11. Termination; Return of Equipment; Survival of NAC Obligations. The Utilization Agreement and this First Supplement shall terminate, unless earlier terminated, on December 31, 1981. The Equipment shall be returned to the possession of NAC at a Santa Fe interchange point in the State of California and will be stored at the closest and least expensive facility then available to be approved in writing by GLC. The Utilization Agreement may be terminated at GLC's election at any time upon the failure of NAC to remit payments or monthly reports to GLC or to perform any other obligation hereunder, under the Utilization Agreement or under the Agreement. Without regard to "termination" of the Utilization Agreement, this First Supplement or the Agreement, all obligations or responsibilities of either NAC or GLC to the other existing as of or prior to such termination shall survive until fully satisfied or discharged.

12. Guaranty of Return of Equipment or Payment Therefor by NAC. NAC hereby guarantees payment to GLC for each unit of Equipment not returned to GLC within 90 days of the termination of the Utilization Agreement in an amount equal to eighty-five (85%) percent of such unit's original purchase price. Upon receipt of payment under this Section, GLC shall quit claim its interest in such unit to NAC or

NAC's nominee. Should NAC locate a unit of Equipment for which payment has been made under this Section 12 and deliver it to GLC in a condition meeting then applicable AAR interchange requirements at a Santa Fe interchange point in the State of California, or such other Santa Fe interchange point previously selected by GLC, to which the other units of Equipment were delivered, all prior to one hundred eighty days after the termination date of the Utilization Agreement, NAC may then tender such unit and a quit claim bill of sale to GLC in exchange for the payment previously made. NAC shall provide twenty (20) days' written notice of the date of the Unit's delivery to GLC. GLC shall make such repayment to NAC at the time of delivery. Should a unit of Equipment be so located by NAC, it shall so notify GLC even if NAC does not intend to tender it in exchange for repayment. GLC shall have the option to demand return of said unit in exchange for repayment within thirty (30) days of receipt of written notice from NAC that the unit has been located. NAC further guarantees that should it knowingly, or as a result of that which it should have known, permit any lien or encumbrance to be placed on the Equipment during the term of the Utilization Agreement, whether in the United States or in Mexico, such lien or encumbrance shall be satisfied in full prior to the return of the Equipment. Should a lien or encumbrance

otherwise be placed on the Equipment prior to its return to GLC, NAC shall take all appropriate action against the Santa Fe approved by GLC, including the filing and diligent prosecution of a lawsuit or lawsuits in state or federal court if the liens or encumbrances exceed in the aggregate \$10,000 in amount claimed, to force the Santa Fe to see to its or their, as the case may be, satisfaction and removal. If the liens and encumbrances exceed in the aggregate \$10,000 but are less than \$100,000, NAC and GLC shall share equally the costs of suit and attorneys' fees provided, however that NAC's maximum obligation for counsel fees shall not exceed \$10,000. If the liens and encumbrances equal or exceed in the aggregate \$100,000, NAC shall be solely responsible for all costs of suit and attorneys' fees. All revenues earned by a unit after termination for which a payment is made hereunder shall be the property of the party ultimately retaining the unit. To the extent that an insurance payment is received by either NAC or GLC for a missing unit, the proceeds of insurance shall be the property of GLC provided that GLC reimburses NAC for any guaranty payment under this Section theretofore made.

13. Prompt Payment; Consent To Foreign Jurisdiction.

NAC shall make all payments due to GLC hereunder and under

the Utilization Agreement, including but not limited to the payments under Sections 7 and 12 hereof, no later than the days set forth hereunder. NAC hereby consents to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania to adjudicate any claims against NAC asserted hereunder by GLC or its lenders. Any such action may include a claim for costs of suit and reasonable attorneys' fees. GLC shall make all payments due to NAC hereunder when due. GLC hereby consents to the jurisdiction of the United States District Court for the Northern District of Illinois to adjudicate any claims against GLC asserted hereunder by NAC. Any such action may include costs of collection and reasonable attorneys' fees.

14. Extension of Management and Remarketing Agreement.

The Agreement is hereby continued beyond its original termination date of September 30, 1981 up to and including December 31, 1981 in order to bring it in conformance with the termination date of the Utilization Agreement provided, however, that if the Utilization Agreement is terminated prior to September 30, 1981, the termination date of the Management and Remarketing Agreement shall revert to September 30, 1981.

15. Effectiveness of Management and Remarketing Agreement. Except as expressly set forth herein, all terms

and conditions of the Agreement remain in full force and effect and unchanged.

16. Effectiveness of First Supplement. This First Settlement shall not become effective until executed by NAC and GLC and approved by GLC's lenders - First National Bank and Trust Company, First Peoples Bank, First State Bank and Hazelton National Bank.

17. Conflict Between Agreements. This First Supplement shall control the relationship between NAC and GLC without regard to any conflicts or inconsistencies which may exist between NAC's obligations hereunder and NAC's rights under the Utilization Agreement.

18. Authority. NAC hereby represents and warrants to GLC that all necessary corporate authority for it to undertake the obligations set forth in this First Supplement has been obtained and is continuing as of the date hereof.

NORTH AMERICAN CAR CORPORATION

By: 

Title *Director Financial Marketing*

GIRARD LEASING CORPORATION

By: _____

Title _____

Agreed to:

FIRST NATIONAL BANK AND
TRUST COMPANY

FIRST STATE BANK

By: _____
Title: _____

By: _____
Title: _____

FIRST PEOPLES BANK

HAZELTON NATIONAL BANK

By: _____
Title: _____

By: _____
Title: _____

This agreement, by and between The Atchison, Topeka and Santa Fe Railway Company (hereinafter "Lessee") and North American Car Company (hereinafter "Lessor"), witnesseth:

WHEREAS, Lessor is managing agent for 297 50'6" 70-ton class XM boxcars (hereinafter "the boxcars"), in three groups, which are identified by number and classified in groups in Appendix A hereto; and

WHEREAS, Lessee desires to use the boxcars in its common carrier railroad business, pursuant to the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties hereto, as set forth herein, Lessee and Lessor agree as follows:

1. Delivery and Utilization of The Boxcars

(a) Lessor and Lessee understand that the Chesapeake and Ohio Railway Company and the Baltimore and Ohio Railroad Company are agreeable to transportation of certain of the boxcars from their current storage location of Niagara Falls, New York to Lessee's Corwith Yard in Chicago at the rate of 70¢ per car per mile. Notwithstanding the provisions of Section 10 hereof, Lessor may terminate this agreement upon five days' prior written notice if transportation of the boxcars from Niagara Falls to Chicago cannot be obtained at said rate.

(b) On or after January 1, 1981, Lessor shall, at its sole expense, deliver the boxcars to Lessee at Lessee's Corwith Yard in Chicago. The boxcars shall be delivered to

Lessee in proper operating condition. Lessee may reject any defective boxcar tendered by Lessor. If any boxcar is rejected by Lessee, Lessor may either repair the boxcar and return it to Lessee or substitute another boxcar.

(c) Lessee shall use the boxcars in interline service as part of its general freight car fleet for a period of one year following the date the last of the boxcars is delivered to Lessee in accordance with subsection (a), above. Lessee agrees to exercise its best efforts toward keeping the boxcars off its own railroad lines in interline service for at least 180 days during the term of this agreement.

2. Compensation

(a) As compensation for its use of the boxcars, Lessee shall pay to Lessor a sum equivalent to the full amount of car hire revenue (per diem or mileage charges) earned by the boxcars while off Lessee's lines, including car hire revenue earned but not paid because of the using railroad's default. Lessee shall not be responsible for any payments whatsoever while the boxcars are physically located on Lessee's lines and are carried in Lessee's accounts.

(b) Lessor and Lessee understand that all car hire revenue from Ferrocarriles Nacionales de Mexico and its railroad subsidiaries (Ferrocarril del Pacifico, Ferrocarril Chihuahua al Pacifico, Ferrocarril Sonora-Baja California, and Ferrocarriles Unidos del Sureste) will be paid to Lessee in accordance with Association of American Railroads Circular No. OT-10 Code of Car

Hire Rules, Rule #1, Paragraph B(1). Lessor and Lessee agree that a sum equivalent to said revenue, minus any incremental addition to cover taxes as provided by said Rule #1, shall be paid by Lessee to Lessor with respect to time periods during which any of the boxcars is in Mexico; provided, however, that Lessee may deduct value-added taxes imposed upon such use from such payments.

3. Foreign Use Restrictions

Lessee shall not allow any boxcar to be used outside the United States for more than 180 days during the term of this agreement. Lessor's sole remedy for breach of this Section 3 shall be termination pursuant to Section 10 hereof.

4. Reports

Lessee, at its sole cost and expense, shall provide monthly reports (on a calendar month basis) to Lessor describing its use of the boxcars. The first report shall be delivered to Lessor within 90 days of delivery of the last boxcar to Lessee, with succeeding reports to be delivered at monthly intervals. Each report shall include, for each boxcar, the following information:

- (a) total hours off Lessee's lines
- (b) total miles off Lessee's lines
- (c) total car hire revenue earned
- (d) days used in foreign nations
- (e) itemization of running repairs and charges

5. Audit

Lessor may, at its sole cost and expense, inspect and audit the accounting records of Lessee insofar as they pertain

to the boxcars during normal business hours upon reasonable advance notice to Lessee.

6. Equipment Registration

Lessee shall register the boxcars as Lessee's equipment in The Official Railway Equipment Register and in the AAR UMLER file.

7. Equipment Maintenance

Lessor shall be responsible for normal maintenance of the boxcars during the term of this agreement, including running repairs. Lessee may bill to Lessor the cost of such normal maintenance, and Lessor agrees to pay such bills within 90 days of presentation. Lessee shall maintain records pertaining to maintenance of the boxcars, which records may be inspected by Lessee during normal business hours upon reasonable advance notice.

8. Destroyed or Damaged Boxcars

Should any of the boxcars be destroyed during the term of this agreement, Lessee's rights and obligations hereunder with respect thereto shall immediately cease and Lessee shall, within thirty days, pay Lessor a settlement value in accordance with Paragraph 107 of the AAR Interchange Rules field manual, unless such damage is the responsibility of Lessor under Section 9(a) hereof. Should any of the boxcars be damaged during the term of this agreement to the extent that running repairs would not enable its return to service, Lessee shall restore such boxcar to its prior condition, at its sole expense, unless such damage is the responsibility of Lessor under Section 9(a) hereof. Lessee shall

determine, in its sole discretion, whether any disabled boxcar has been "destroyed" or "damaged" within the meaning of this Section 8.

9. Indemnity

(a) Lessor agrees to indemnify and save harmless Lessee from and against any and all judgments, claims and demands for loss or damage to property or injury to or death of all persons, including without limitation employees, officers and agents of Lessor and Lessee, when such loss or damage, injury or death results from the sole negligence of Lessor or the failure of or defects in any of the boxcars; provided, however, that Lessor shall not be responsible for defective repairs by Lessee performed upon damaged boxcars pursuant to Section 8 hereof.

(b) Lessee agrees to indemnify and save harmless Lessor from and against any and all judgments, claims and demands for loss or damage to property or injury to or death of persons arising out of operation by Lessee of the boxcars hereunder, except when such loss or damage, injury or death results from the sole negligence of Lessor or the failure of or defect in any of the boxcars, in which case Lessor shall indemnify Lessee pursuant to subsection 9(a), above.

10. Termination

This agreement shall terminate on December 31, 1981; provided, however, that Lessor, after receipt of the first monthly report required by Section 4, may terminate the agreement upon 15 days' prior written notice as to any of the three groups

of boxcars if the boxcars in that group have not been earning car hire revenue off Lessee's lines at least half the time during any month, or if any boxcar in that group has been used outside the United States for more than 180 days during the term of this agreement in violation of Section 3 hereof. Upon termination of this agreement as to any group of boxcars, Lessee shall remove the boxcars in that group from its general freight car fleet, return the boxcars in that group to Lessor at a mutually agreed upon interchange point on Lessee's railroad lines within 15 days, and remove the boxcars in that group from The Official Railway Equipment Register and from the AAR UMLER file. Lessee agrees to store until December 31, 1981, without charge, boxcars included in a group as to which this agreement has been terminated by reason of Lessee's violation of Section 3 hereof.

11. Notices

Notices and reports shall be deemed delivered when deposited with the United States Postal Service or its successor, first-class postage prepaid, properly addressed to the other party as follows:

Lessor:

Lessee:

of boxcars if the boxcars in that group have not been earning car hire revenue off Lessee's lines at least half the time during any month, or if any boxcar in that group has been used outside the United States for more than 180 days during the term of this agreement in violation of Section 3 hereof. Upon termination of this agreement as to any group of boxcars, Lessee shall remove the boxcars in that group from its general freight car fleet, return the boxcars in that group to Lessor at a mutually agreed upon interchange point on Lessee's railroad lines within 15 days, and remove the boxcars in that group from The Official Railway Equipment Register and from the AAR UMLER file. Lessee agrees to store until December 31, 1981, without charge, boxcars included in a group as to which this agreement has been terminated by reason of Lessee's violation of Section 3 hereof.

11. Notices

Notices and reports shall be deemed delivered when deposited with the United States Postal Service or its successor, first-class postage prepaid, properly addressed to the other party as follows:

Lessor: Mr. D. P. Valentine
 General Superintendent--Transportation
 The Atchison, Topeka and Santa Fe Ry. Co.
 80 East Jackson Boulevard
 Chicago, Illinois 60604

Lessee:

IN WITNESS WHEREOF, the parties hereto have executed
this agreement on the _____ day of December, 1980.

The Atchison, Topeka and Santa
Fe Railway Company

By *D. L. Rugg*

North American Car Corporation,
as Managing Agent for

By *James Longster*